

**§ 1.1502-79 Separate return years.**

(a) *Carryover and carryback of consolidated net operating losses to separate return years.* For losses arising in consolidated return years beginning before January 1, 1997, see § 1.1502-79A(a). For later years, see § 1.1502-21(b).

(b) *Carryover and carryback of consolidated net capital loss to separate return years.* For losses arising in consolidated return years beginning before January 1, 1997, see § 1.1502-79A(b). For later years, see § 1.1502-22(b).

(c) *Carryover and carryback of consolidated unused investment credit to separate return years—(1) In general.* If a consolidated unused investment credit can be carried under the principles of section 46(b) and paragraph (b) of § 1.1502-3 to a separate return year of a corporation (or could have been so carried if such corporation were in existence) which was a member of the group in the year in which such unused credit arose, then the portion of such consolidated unused credit attributable to such corporation (as determined under subparagraph (2) of this paragraph) shall be apportioned to such corporation (and any successor to such corporation in a transaction to which section 381(a) applies) under the principles of § 1.1502-21(b) (or §§ 1.1502-79A(a)(1) and (2), as appropriate) and shall be an investment credit carryover or carryback to such separate return year.

(2) *Portion of consolidated unused investment credit attributable to a member—*

(i) *Investment credit carryback.* In the case of a consolidated unused credit which is an investment credit carryback, the portion of such consolidated unused credit attributable to a member of the group is an amount equal to such consolidated unused credit multiplied by a fraction, the numerator of which is the credit earned of such member for the consolidated unused credit year, and the denominator of which is the consolidated credit earned for such unused credit year.

(ii) *Investment credit carryover.* In the case of a consolidated unused credit which is an investment credit carryover, the portion of such consolidated unused credit attributable to a member of the group is an amount equal to such consolidated unused credit multi-

plied by a fraction, the numerator of which is the credit earned with respect to any section 38 property placed in service in the consolidated unused credit year and owned by such member (whether or not placed in service by such member) at the close of the last day as of which the taxable income of such member is included in a consolidated return filed by the group, and the denominator of which is the consolidated credit earned for such unused credit year.

(d) *Carryover and carryback of consolidated unused foreign tax—(1) In general.* If a consolidated unused foreign tax can be carried under the principles of section 904(d) and paragraph (e) of § 1.1502-4 to a separate return year of a corporation (or could have been so carried if such corporation were in existence) which was a member of the group in the year in which such unused foreign tax arose, then the portion of such consolidated unused foreign tax attributable to such corporation (as determined under subparagraph (2) of this paragraph) shall be apportioned to such corporation (and any successor to such corporation in a transaction to which section 381(a) applies) under the principles of § 1.1502-21(b) (or §§ 1.1502-79A(a)(1) and (2), as appropriate) and shall be deemed paid or accrued in such separate return year to the extent provided in section 904(d).

(2) *Portion of consolidated unused foreign tax attributable to a member.* The portion of a consolidated unused foreign tax for any year attributable to a member of a group is an amount equal to such consolidated unused foreign tax multiplied by a fraction, the numerator of which is the foreign taxes paid or accrued for such year (including those taxes deemed paid or accrued, other than by reason of section 904(d)) to each foreign country or possession (or to all foreign countries or possessions if the overall limitation is effective) by such member, and the denominator of which is the aggregate of all such taxes paid or accrued for such year (including those taxes deemed paid or accrued, other than by reason of section 904(d))

to each such foreign country or possession (or to all foreign countries or possessions if the overall limitation is effective) by all the members of the group.

(e) *Carryover of consolidated excess charitable contributions to separate return years*—(1) *In general.* If the consolidated excess charitable contributions for any taxable year can be carried under the principles of section 170(b)(2) and paragraph (b) of § 1.1502-24 to a separate return year of a corporation (or could have been so carried if such corporation were in existence) which was a member of the group in the year in which such excess contributions arose, then the portion of such consolidated excess charitable contributions attributable to such corporation (as determined under subparagraph (2) of this paragraph) shall be apportioned to such corporation (and any successor to such corporation in a transaction to which section 381(a) applies) under the principles of § 1.1502-21(b) (or §§ 1.1502-79A(a)(1) and (2), as appropriate) and shall be a charitable contribution carryover to such separate return year.

(2) *Portion of consolidated excess charitable contributions attributable to a member.* The portion of the consolidated excess charitable contributions attributable to a member of a group is an amount equal to such consolidated excess contributions multiplied by a fraction, the numerator of which is the charitable contributions paid by such member for the taxable year, and the denominator of which is the aggregate of all such charitable contributions paid for such year by all the members of the group.

[T.D. 6894, 31 FR 11794, Sept. 8, 1966, as amended by T.D. 7728, 45 FR 72650, Nov. 3, 1980; T.D. 8294, 55 FR 9438, Mar. 14, 1990; T.D. 8319, 55 FR 49038, Nov. 26, 1990; T.D. 8364, 56 FR 47402, Sept. 19, 1991; T.D. 8597, 60 FR 36710, July 18, 1995; T.D. 8677, 61 FR 33324, 33325, 33334, June 27, 1996; T.D. 8823, 64 FR 36100, July 2, 1999]

#### § 1.1502-80 Applicability of other provisions of law.

(a) *In general*—(1) *Application of other provisions.* The Internal Revenue Code (Code), or other law, shall be applicable to the group to the extent the regulations do not exclude its application. To the extent not excluded, other rules op-

erate in addition to, and may be modified by, these regulations. Thus, for example, in a transaction to which section 381(a) applies, the acquiring corporation will succeed to the tax attributes described in section 381(c). Furthermore, sections 269 and 482 apply for any consolidated return year. However, in a recognition transaction otherwise subject to section 1001, for example, the rules of section 1001 continue to apply, but may be modified by the intercompany transaction regulations under § 1.1502-13.

(2) *No duplicative adjustments.* Nothing in these regulations shall be interpreted or applied to require an adjustment, inclusion, or other item to the extent it would have the effect of duplicating any other adjustment, inclusion, or other item required under the Code or other rule of law, including other provisions of these regulations.

(3) *Application of single-entity principles.* If two or more adjustments, inclusions, or other items are subject to paragraph (a)(2) of this section, the determination of which adjustment, inclusion, or other item is treated as applied or taken into account is made by taking into account the purposes of the provisions and applying single-entity principles as appropriate.

(4) *Effective/applicability dates.* This paragraph (a) is applicable with respect to transactions and determinations on or after September 17, 2008.

(b) *Non-applicability of section 304.* Section 304 does not apply to any acquisition of stock of a corporation in an intercompany transaction or to any intercompany item from such transaction occurring on or after July 24, 1991.

(c) *Deferral of section 165*—(1) *General rule.* Subsidiary stock is not treated as worthless under section 165 until immediately before the earlier of the time—

(i) The stock is worthless within the meaning of § 1.1502-19(c)(1)(iii); or

(ii) The subsidiary for any reason ceases to be a member of the group.

(2) *Cross reference.* See § 1.1502-36 for additional rules relating to worthlessness of subsidiary stock on or after September 17, 2008.

(3) *Effective/applicability date.* This paragraph (c) applies to taxable years